

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1858.—Ordered to be printed.

Mr. SIMMONS made the following

REPORT.

[To accompany Bill S. 131.]

The Committee of Claims, to whom was referred the petition of Samuel V. Niles, report :

This claim was examined by the Committee of Claims of the last Congress, who made a favorable report thereon, accompanied by a bill which passed the Senate. The present committee concur in the report then made, as follows, viz :

“ The memorialist submits the following account :

“ *United States,*

“ *To Samuel V. Niles, Dr.*

“ To ninety days’ service as a clerk in the General Land Office,
from March 9, 1849, to June 30, 1850, being the number of
Sundays between those periods, at \$4 per diem.....\$360 00

“ Mr. Niles appears to have been appointed a temporary clerk in the General Land Office on the 9th of March, 1849, under the provisions of the act of August 26, 1842, which provides that ‘ no extra clerk, for copying, shall receive more than three dollars per day, or for any other service more than four dollars per day for the time actually and necessarily employed.’—(5 Statutes at Large, 526.)

“ Under this provision, as appears from a letter of the late Commissioner Wilson, the accounting officers rejected the *per diem* for Sundays. This Construction of the law, the Commissioner thinks, is entirely erroneous.

“ By the act of March 3, 1849, (9 Statutes at Large, 370,) the Commissioner of the General Land Office was ‘ authorized to continue three temporary clerks during the recess of Congress, until the patents for bounty lands shall be issued, said clerks to be paid out of the contingent fund.’

“ On the 8th of March, 1849, the day preceeding the appointment of Mr. Niles, three clerks were appointed, in accordance with that pro-

vision, at the same rate of pay, (viz: four dollars per day,) and to perform like duties as those performed by Mr. Niles. These three clerks, as is stated, received the *per diem* for Sundays.

"Judge Young, then Commissioner, and who made all the appointments referred to, says: 'The facts, as to the services of Mr. Niles, are correctly set forth. I appointed him a clerk in the Land Office, at the time stated, at the same rate of compensation promised to Messrs. Whitney, Brega, and Lucas, and fully intended that no distinction should be made between them, and that he should receive the same emoluments, in every particular, granted them, including the Sunday *per diem*.'

"The ground of distinction taken by the Comptroller seems to have been that the three clerks named were appointed under the special provisions of the act of 1849, which relieved them from the operation of the act of 1842, and that the Commissioner had promised them the Sunday *per diem*.

"The committee are of opinion that the claimant is justly and equitably entitled to the relief asked, and report a bill accordingly."